

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(4050 Link Avenue)		
11 th Election District	*	OF ADMINISTRATIVE
6 th Councilman District		
Nicholas Harrigan and Anthony Harrigan	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2014-0187-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Nicholas Harrigan and Anthony Harrigan, the legal owners of the subject property. The Petitioners are requesting variance relief from § 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an existing dwelling with a side yard setback of 4 ft. 11 in. in lieu of the required 10 ft. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the public hearing in support of the request was Petitioners Nicholas Harrigan and Anthony Harrigan. Two neighbors also attended the hearing and expressed concern about the request. The Petition was advertised and posted as required by the B.C.Z.R.

The only substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP) dated March 31, 2014. That agency did not object to the Petitioners’ request.

Testimony and evidence revealed that the subject property is approximately 10,710 sq. ft. and is zoned D.R. 5.5. The property, known as Lot #74, is shown on the plat of Fullerton Farms. The property is improved with a single family dwelling constructed in 1959, and as noted in the

Petition, the lot is 50' wide and has side yard setbacks of 4' 11" and 9'. These setbacks and lot width are deficient under current law, and the Petitioners seek variance relief to "legitimize" the conditions.

But I do not believe the Petitioners require variance relief for this property. The Petitioners also own the adjoining "undersized" lot (known as Lot 75), for which they have also requested variance relief in companion case No.: 2014-0186-A. That case will be considered in a separate order. But with respect to 4050 Link Avenue (Lot 74), the dwelling was constructed over 50 years ago, and it is thus a legal, nonconforming building under B.C.Z.R. §104. This dwelling can remain as situated, and can also be reconstructed in its present location if it were to be destroyed by fire or other casualty. B.C.Z.R. §104.

Pursuant to the advertisement, posting of the property and public hearing on this Petition, and for the reasons set forth above, the petition for variance relief shall be dismissed without prejudice (as unnecessary).

THEREFORE, IT IS ORDERED, this 22nd day of May, 2014, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from §1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an existing dwelling with a side yard setback of 4 ft. 11 in. in lieu of the required 10 ft., be and is hereby DISMISSED without prejudice.

IT IS FURTHER ORDERED that the single family dwelling known as 4050 Link Avenue shall be deemed a lawful, nonconforming structure under the B.C.Z.R.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

JEB:sln

Signed _____
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County